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RESPONSIBILITY FOR THE WAR OF SECESSION.

I.

THE repeal of the Missouri Compromise led up to a speculative dispute between President Buchanan and Senator Douglas, as to the time when the voters of a territory could decide whether or not slave labor should exist therein. The debate, as it went on, involved an inquiry into the condition of a slave taken by his master into a territory where there existed neither local law nor law of Congress regulating the relation of master and slave. Did the federal constitution accompany such master and slave into the territory, so as to prevent either Congress or the territorial legislature, or both combined, from sundering the tie? The dispute became acute when President Buchanan sent the Lecompton Constitution to Congress, and thereupon advised the admission of Kansas into the Union as a state. Douglas denied that the Lecompton Constitution had been approved by the voters of the territory, and condemned Buchanan's conduct in transmitting it to the Senate. Then and there came a rift which disrupted the Democratic Party at Charleston, in 1860, and entailed the civil war, whereby were emancipated from slavery three millions of the African race. The rift was not closed either by the decision of Congress to send back to Kansas the Lecompton Constitution, or by the vote of Kansas in August, 1858, refusing to tolerate slave labor, or by the adoption of a free-labor constitution at Wyandotte in 1859, under which, some twelve months afterward, Kansas became decisively a free state.

The dispute between Buchanan and Douglas was academic, because, when the former was inaugurated president, Kansas was peaceful, and the territorial government, having been recognized by Congress, was in full sway. With the reins in a firm hand like that of Geary, an honest vote upon the critical question was secure, and the time had arrived for transforming the

territory into a state. The exculpation of his own conduct made by ex-President Buchanan in 1865, to the effect that the supreme court had said that the voters of a territory could not, when acting through their legislature, interfere with the relation of master and slave, but could interfere only when acting through a convention assembled to frame a state constitution, was irrelevant as to Kansas, because the territorial condition was approaching its end.

Mr. Lincoln, with foresight and adroit purpose singularly unnoted by myth-making historians, effectively enlarged, by his debate with Douglas in 1858, the breach between the latter and Buchanan. Douglas intimated that the two troublesome and, as he dealt with them, fatal questions presented to him at the Freeport meeting were framed by concerted action of the partisans of Buchanan and of Lincoln. A local victory was won by Douglas in Illinois and he was by the legislature chosen to be senator, but when Congress re-assembled in the next December he was not re-elected to be chairman of the committee on territories. In the next month but one, and not long before the assembling of the National Democratic Convention at Charleston, a series of resolutions were presented to the Senate by Jefferson Davis, which, towards the end of May, and in the absence of Douglas by illness, were adopted by every Democratic vote excepting that of Senator Pugh of Ohio. Those resolutions explicitly condemned the contentions of Douglas respecting the power of Congress or a territorial legislature to annul or impair the right of a citizen to take slave property into a territory and there hold it. As a result of that theoretic dispute between Buchanan and Douglas, skilfully inflamed by Lincoln, and of that Senate vote, there were four presidential tickets in 1860, and Lincoln won with only 1,866,352 out of the 4,676,853 ballots cast.

The blow which severed Douglas from his long existing connexion with the territorial committee of the Senate was a painful one for him to bear. He had been sent by Illinois to the lower house of Congress in 1843. He had been chosen to the Senate in 1847, 1852 and again in 1858. He had been

chairman of the House committee on territories during the twenty-ninth Congress. He had reported the joint resolution for the admission of Texas. He had proposed in the cases of Texas and Oregon, and carried in the case of Texas, the extension of the Missouri Compromise line (which he denounced in 1854 as unconstitutional) to the extreme western boundary of our then territorial possessions. He had been for eleven years chairman of the Senate committee on territories. He had reported bills to create territorial governments for Minnesota, Oregon, New Mexico, Utah, Washington, Nebraska and Kansas, and to admit Iowa, Wisconsin, California and Minnesota as states. He had been conspicuous in the legislation which completed the Compromise of 1850, on which, as a "finality," the Democratic party and its candidates stood in their successful presidential canvass of 1852.

II.

Undoubtedly the first link in that chain of cause and consequence on which at last hung the war of secession was the movement in 1854 for the repeal of the Missouri Compromise of 1820. The acquisition of Louisiana and Texas, the Mexican War, the cession of California, Utah and New Mexico, were precedent events, but not causal in the same sense.

On February 23, 1855, Douglas said in the Senate :

The Nebraska Bill was not concocted in any conclave night or day. It was written by myself, at my own house, with no man present. Whatever odium there is attached to it, I assume.¹

Certain modern historians endeavor to deprive Douglas of the sole paternity of the Missouri Compromise which he thus claimed in 1855. They intimate, explicitly or vaguely, as may happen to suit the color and shadows of their text, that President Pierce invented, or suggested, or with Douglas contrived, the plan of repeal which the Senate committee reported. The intimation is groundless.

At the time of the repeal of the Missouri Compromise, the Democratic Party held the executive departments of the federal

¹ Appendix to Congressional Globe, 2d session 33d Congress, p. 216.

government, the supreme court and both houses of Congress. Its majority in the Senate was excessive. Whatever may have been the constitutional limitations of the power of Congress in regard to slave labor in the territories, it is not denied that the preparation and the organization of the forms of a territorial government are the business of Congress. It alone has the power "to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." The president can approve or he can veto a bill passed for that purpose. If he thinks it necessary or expedient to organize a territorial government, he can commend the work to the immediate attention of Congress. President Pierce had made no suggestion to Congress concerning a territorial government for Nebraska or Kansas. The presumption therefore is that he did not interfere in the preparation of the enactment.

A bill to organize the territory subsequently known as Nebraska and Kansas had passed the House during the last days of President Fillmore's administration, but had been laid aside in the Senate on account of objections to a clause relating to the Indians and because the close of the session was near. That same bill was again presented to the Senate in December 1853, and was sent to the committee on territories, composed of Douglas of Illinois, Houston of Texas, Johnson of Arkansas, Jones of Iowa, Bell of Tennessee, and Everett of Massachusetts. The last two were Whigs and became candidates of the Constitutional-Union Party in the presidential canvass of 1860. On January 4, 1854, Douglas, as chairman of that committee, brought in a new bill and presented an elaborate report which distinctly refused to disturb the Compromise of 1850. The report urged reasons why the controversies should not be reopened which had produced the "fearful struggle" of that year. It identified and described those controversies, and especially referred to the constitutionality of the astronomical line of 1820 as one of them. It declared that the committee now adopted the course pursued on "that memorable occasion" of 1850, and therefore refrained from "affirming or repealing" the line of 36° 30'.

Thus the matter stood till twelve days thereafter, when Dixon, a Whig senator from Kentucky, the immediate successor of Henry Clay, gave notice of his intention to move an amendment to the bill declaring that the law prescribing the Missouri line should not be so construed as to apply to any present territory, but that citizens should be at liberty to go into such territory with their slaves. As the alpenstock of a mountain climber in the highest Alps may start an avalanche which carries disaster and death into the quiet vale below, so that procedure by Dixon opened the way for national woes unnumbered. It has been said that Douglas immediately went to Dixon and privately remonstrated with him. On the next day, Sumner presented in the Senate a counter-amendment confirming the astronomical line of partition between slavery and freedom. The avalanche was moving!

There has been published as history a sensational description of what was said and done a day or two afterward while Dixon and Douglas were driving together in the environs of Washington. However true or false that story may be, Douglas did straightway move the Senate to recommit the bill, and it was recommitted on the understanding that a report should be made on the Monday next ensuing. On the Saturday before that Monday, the committee agreed on an amendment setting forth that the Missouri line of 1820 had been "superseded by the principles of the legislation of 1850," and was therefore "inoperative." It subsequently appeared that Douglas had privately remonstrated with Dixon against the amendment proposed by the latter because it "affirmatively legislated slavery into the territory"; but Dixon explained that he only proposed to put a slave owner wishing to go to Kansas with his slaves, in the condition in which he would be if the Missouri line did not exist, and he accepted the amendment proposed by the committee.

There is not yet any evidence that before the day of the Dixon amendment anybody contemplated a serious effort to destroy the partition line. The subsequent unwillingness of those in the Senate concerned therein to enact an explicit re-

peal, indicates how delicate, critical and even dangerous they deemed the execution of the new plan. To declare that "principles" had "superseded" a positive enactment and so made it "inoperative," was on its face a queer form in which to put a declaration of repeal on the statute book. That plan was, on Sunday, January 22d, proposed by Douglas to President Pierce in behalf of the Senate committee. It was the first time the president had heard of it. He had given little, if any, attention to what the Senate committee had been doing in respect to organizing territorial governments. A President of the United States, especially when the office-seekers have encamped round about him, has little opportunity to supervise the doings of Congressional committees at the other end of Pennsylvania Avenue.

Mr. Pierce was at that time perfectly familiar with all the details, even the most minute, of the Texas annexation controversy and of the Compromise of 1850. His debate with John P. Hale in New Hampshire, eight or nine years before, over Texas—a debate as conspicuous then in New England as was that in Illinois, a few years later, between Lincoln and Douglas,—and the movement which he had led in New Hampshire to throw over the Democratic nominee for governor because the latter questioned the "finality" of the Congressional legislation of 1850, could not and did not leave Pierce in any doubt concerning the relation of the Wilmot Proviso, or the adjustment of 1850 (which had suppressed the proviso), to the enactment of 1820. He had vindicated the legislation of 1850 as a pacification, an accommodation, an arrangement by a compromise of conflicting sectional theories. He had upheld it, in his letter of acceptance of the Baltimore nomination, as a "finality." He had been chosen to be president on that issue. In his inaugural address he again referred to that reconciliation in 1850 of conflicting opinions respecting the rights of slave owners to go into new territories carrying slave property. He said:

Notwithstanding differences of opinion and sentiment which then existed in respect to details and specific provisions, the acquiescence

of distinguished citizens whose devotion to the Union can never be doubted has given renewed vigor to our institutions, and restored a sense of repose and security to the public mind.

And he added:

This repose is to suffer no shock during my official term, if I have power to prevent it.

Those opinions, purposes, ideas and sentiments had been distinctly approved by each member of the cabinet before his name had been sent to the Senate.

Many weeks before the inauguration of President Pierce, all the members of his cabinet excepting the postmaster-general had been invited to accept the places which they all retained throughout the term.¹ All who had been invited accepted save the secretary of war. He preferred to remain a planter and not again to enter public life, but the president-elect, after Davis had refused the War office, invited him to come to Washington for the inauguration, and he came, though owing to railway delays he did not arrive till the day after the ceremony. When they met, the president explained his purpose to put in the hands of Davis, who was pre-eminently fitted for the work, the surveys for the projected Pacific railways. What had been said by the president in his inaugural address in relation to the "finality" of the Compromise of 1850 was by Davis considered during the consultation, and it had his approval as Democratic duty and policy for the future. I have never seen or heard of a scintilla of competent evidence to indicate that while in the cabinet he encouraged, or tolerated, such a change as the historians depict. His own

¹ Mr. Rhodes (vol. 1, p. 389), in order to embroider the fiction of "many councils" over a New York member of the cabinet to reconcile "Hards and Softs," says: "Pierce did not really decide who should be his secretary of state until he had actually been one day in office, for up to the morning of March 5th that portfolio had not been offered to Marcy." As a matter of fact, Marcy had previously journeyed (without a brass band and a staff of newspaper reporters) from Albany to Boston, had there met the president-elect by arrangement, and had accepted the State Department. He went soon after to the South and remained there till he came thence to the inauguration. The historian is blind to Marcy's grim fun in a teasing letter to Buchanan.

appreciation of the character of the president, the ties of reciprocal fidelity, personal and official, which united them and which Davis has alluded to in his book, make it difficult for one to suspect that he ever conspired with Douglas, or with any one else, against what he knew to be the commitments of his chief. And besides, there was never any love lost between Davis and Douglas.

When Douglas came that Sunday and reported what had taken place in the Senate, the "sense of repose and security" had been assailed. The "shock" had come. The consenting thereto, the preparation therefor, in the Senate had been unsuspected by the president. In the first volume of his *Rise and Fall of the Confederate Government*, Davis says (p. 28) with perfect sincerity and truth: "This bill was not, as has been improperly asserted, a measure inspired by Mr. Pierce, or any member of his cabinet."¹ Whether or not

¹ At this point it is edifying to glance at what the historians have written. Von Holst says: "The first condition of the success of his [Douglas'] plan was, of course, the emphatic co-operation of Pierce" (Lalor's Translation, vol. iv, p. 350). "Pierce's subsequent course excludes all doubt that it was not moral scruples but these party political considerations, with sharp personal points, which caused him to yield involuntarily when Douglas now proved to him the necessity of approaching the slavocracy another step" (p. 318). "He [Pierce] did not have courage enough to descend into such depths of infamy" (p. 309). "Whether Douglas had come to an understanding with him [Pierce] before he made his report of the 4th of January and thought out the 21st section of his bill, I cannot discover from the sources at my command" (p. 309). "Marcy had not the penetration and character to use his short hour, when events brought the crown of immortality within the reach of his hand" (p. 353). "Marcy, too, declared the 'principle' to be democratic, and only considered it questionable whether such an application of the principle was proper in this case" (p. 352).

Schouler says (p. 231): "Nor had Douglas himself the hardihood of perpetrating the new and iniquitous issue without a previous assurance of the President's support and approval." "Marcy, it is well known, was dissatisfied with the scheme from first to last, though loving party and place too well to forsake his post. Jefferson Davis, the Secretary of War, was the President's inspirer in this business, and, by his own admission, negotiated the compact between the White House and the territorial committee rooms of the Capitol."

Rhodes says (vol. 1, p. 431): "Douglas first prepared the bill without consultation with any Southern men." "Douglas had written his report, and prepared his first bill, without any consultation with the President. . . . Pierce, through his own organ, the *Washington Union*, which faithfully represented his opinions, had approved the report of the committee on territories, but he did not regard

President Pierce decided wisely in refusing to commit his administration against a measure which he then for the first time discovered his party in the Senate resolved with substantial unanimity to push to a vote, and in favor of which the Senate stood nearly four to one, may possibly be now an open question. He did decide, however, that the threatening aspect of the foreign affairs of the United States did not permit him to enter, at that time, upon a quarrel with the Senate over a measure to organize territorial governments for Kansas and Nebraska.¹

The president clearly realized that the Van Buren Free-Soilers had decided his election. It was the defection of this party from Cass in 1848 that had given New York to the Whigs and made Taylor president. But four years later the great body of those Free-Soilers who had been Wilmot Proviso men stood firmly by Pierce (even although he vindicated the suppression of that Proviso in the interest of the Compromise of 1850), as did also the opposing Democratic fraction in New York, known as "Hunkers." The latter, however, resented the preference of the president-elect for Marcy over Dickinson as secretary of state. Mr. Pierce desired to show no partiality on account of past opinions on the slavery question, and especially on the Wilmot Proviso, among those north or south who had voted for him. Accordingly, in filling the chief

with favor the amendment of Dixon" (p. 436). "We may feel certain, however, that it was the persuasion of Davis at the private interview [Jan. 22] which induced the President to give his approval" (p. 438).

Benton, in his *Historical and Legal Examination of the Dred Scott Case*, says: "This is the record history of that abrogation of the Missouri Compromise into which the administration of Mr. Pierce was *forced*" (p. 172).

¹ The very strained relations in 1853-54 between Great Britain and the United States, manifested by the men-of-war confronting each other off the Canadian coast, were explained in a paper prepared by the writer, and read before the Grafton and Coös Counties Bar Association of New Hampshire, in September 1892, on "The Canadian Reciprocity Treaty of 1854." The situation was well described in a speech by Lord Elgin: "A British admiral and an American commodore are sailing on the coast with instructions founded upon opposite conclusions, and a single indiscreet act on the part of one or the other of these naval officers would have brought on a conflict involving all the horrors of war." That treaty, which happily dispersed the hostile vessels, was not ratified by the Senate till a few days after the enactment of the Kansas law.

federal offices in New York City, the president appointed from the "Hunkers" Dickinson to be collector of the port of New York and Charles O'Connor to be district attorney, and from the "Barnburners" he made John A. Dix assistant treasurer, Heman J. Redfield naval officer, and John Cochrane surveyor. The appointment of General Dix was so severely condemned in the South as an elevation of a "Free-Soiler and abolitionist," that Mr. Pierce wrote an elaborate defence of himself to Garvin of Georgia, in August, 1853. Toombs of that state arraigned the president for betraying the Compromise of 1850 "by bringing his enemies into power," meaning the advocates of the Wilmot Proviso. The quarrels between the rival Democratic fractions in New York could not be appeased, and they culminated when the Democratic state convention assembled at Syracuse. Each fraction, — "Hards" and "Softs," as then described, — nominated a ticket of state officers. The Whig candidate for secretary of state received 160,553; the candidate of the "Hards" received 99,835; and the candidate of the "Softs" received 96,137 votes. The platforms of the rival fractions were substantially alike in what they said of slave labor. Probably the Washington *Sentinel*, which posed as a Democratic organ, was not far astray when, after the New York election, it thus defined the resentment of the "Hards":

Whether a statesman should have seen it or not, one thing is certain. The moment the president selected Governor Marcy for a member of his cabinet instead of Mr. Dickinson, the fate of the Democratic union in this state [New York], if not that of the administration itself, was sealed.

How much that condition of the Democratic party in New York and the relation of Pierce and Marcy to it, had to do with the several phases of the Kansas bill as presented by Douglas, is now pure conjecture.

The historians of the period have been greatly influenced in their views as to Mr. Pierce's connection with Douglas' bill by the assumption that the Washington *Union* was an "organ" of the president. Their search for the facts in this matter seems to have been inadequate. We are now encompassed by the

multitudinous life and action of newspapers swarming between the Atlantic and the Pacific, full of enterprise, with various political leanings, the common business object of profit, and the class interest of power, but we have long outlived the "organ" which began its music on the bank of the Potomac more than half a century ago when Jackson called Blair from Kentucky to finger the keys of the *Globe*. During the three terms of Jackson and Van Buren, the *Globe* may possibly have been the interpreter of the administration, but President Polk having exchanged Blair for Ritchie, contrary to the earnest advice of ex-President Jackson, the *Globe* was merged in the *Union*. After Ritchie's death the *Union* passed from one proprietor to another till, in the beginning of 1853, it was owned by Armstrong of Tennessee, an estimable man who paid little attention to its editorial columns, but was chiefly concerned in promoting his own candidacy for the office of public printer.

At that time there was not a government printing establishment as now, but a superintendent of public printing was appointed by the president, with the consent of the Senate, and each house chose by ballot its printer. The political situation in the summer of 1853 made it feasible to divide the printing of the two houses and choose two printers. Beverly Tucker, a Virginian, had been an unsuccessful candidate for marshal of the District of Columbia, and in August of that year he began the publication of the *Sentinel*, which very soon criticised the administration and was from the outset an active rival and antagonist of the *Union*. After Congress had assembled in 1853, Armstrong became printer for the House, but in the Senate he was defeated by Tucker, for whom Whigs and Free-Soilers, including Seward, Sumner, Chase and Wade, voted, although Tucker was then co-operating with the most extreme pro-slavery men. The *National Intelligencer*, which had been an exponent of Whig opinions ever since that party came into existence, received only one vote. Tucker had twenty-seven votes, Armstrong sixteen. Douglas was reported as absent. Armstrong died in February 1854, and Nicholson,

then an editorial writer on the staff of the *Union*, was elected his successor by the House. The tenure of a printer was the pleasure of the house which chose him, and the emoluments of the position constituted a very important item in the finances of a newspaper controlled by an incumbent. Although the life of the *Union* newspaper thus depended on keeping the good will and the printing patronage of the Democratic House, and although it was obvious that if that journal was the "organ" of anybody or anything, less or other than the whole Democracy, it was the "organ" of the House, yet the historians persistently represent it as in all things editorial the mouth-piece of the president. Its proprietors and conductors did not, for obvious reasons of self-interest, actively disavow such pretensions till 1855, when, for reasons equally obvious, they denied that they had ever held organship.¹ Forney, then the Clerk of the House of Representatives, was an editorial writer on the *Union*, and was at the time, as he discloses more or less clearly in his *Anecdotes of Public Men*, doing his best to promote the nomination of Buchanan in 1856.

The insistence by certain newspapers hostile to the president that everything printed on the editorial page of the *Union* was inspired by him, or by a member of his cabinet, presented amusing incidents. At a time when American opinion sympathized deeply with Kossuth, who, overthrown in Hungary by the co-operation of Russia with Austria, had come to our shores, and not long before had left them, an editorial appeared in the *Union* eulogizing Russia. The article, brilliant enough to compel either commendation or censure, was written by Roger A. Pryor, now a valuable member of the New York bench. The opposition press fell upon the article, and made each member of the cabinet in turn responsible for it. European commentators accepted the view that the article had government inspiration. Meanwhile the brilliant author, then a young man, was quietly enjoying the excitement over a casual effort of his pen in which no head or hand but his own had been in any way concerned. Thus it was with other editorials in the

¹ Cf. POLITICAL SCIENCE QUARTERLY for March, 1893, p. 26 *et seq.*

Union which the opposition could pervert to its uses. If an official act, whether in foreign or domestic affairs, did not when made public tally perfectly with something previously said concerning the subject in that journal, the official who had done the act was condemned by the opposition newspapers for irresolution or vacillation or weakness.¹

III.

There is nothing that I have seen even tending to show that Douglas believed that the obliteration of the Missouri line would make Kansas a slave-labor state, or that he desired such an effect. It was the opinion of the president, in which opinion the secretary of war concurred, that owing to the climate and situation of Kansas the repeal would be futile to accomplish that result. The president said as much to Clemens of Alabama in a conversation which, more or less correctly reported, found its way into the newspapers of the day. Probably no one foresaw, when the repeal was under debate, such a conflict between Missouri and Massachusetts to control the politics of the territory as subsequently occurred. How could those who had the responsibility of framing a form of government for Kansas anticipate the disorder and violence which the repeal incited, to the prejudice of regularity in the territory? There was neither disorder nor violence in Nebraska. Kansas was, nevertheless, the theatre of events which produced commotion in Congress, and made issues in Northern elections. Aided greatly by the mysterious and sudden uprising of Know-Nothingism against the influence of the Roman Catholic Church, naturalized citizens and all immigrants, the Kansas issue defeated the choice at Washington of a Democratic

¹ Happily the article by Mr. Pryor in 1853 commended the government at St. Petersburg. Twenty years earlier the Russian *chargé d'affaires* at Washington had complained, in a note to the Department of State, of an article in the *Globe* expressing sentiments hostile to Russia, and the complaint gave the then secretary of state inconvenience because that journal was at that time really an "organ" of the administration. Such an incident, one would naturally say, should have been sufficient to put an end to official relations between editorials in a newspaper and the president.

Speaker in 1854-55, completed the destruction of the Whig Party, and sent to the Senate many members of the new Republican Party, who owed their election solely to the political and religious hurricane. After that hurricane had subsided, Buchanan and a Democratic House were chosen in the autumn of 1856.

The president appointed in succession three governors for Kansas — Reeder, Shannon and Geary. The first two were failures. The last was a brilliant success, and it is a fair inference that if Geary had been selected instead of Reeder, disorder would not in the beginning have reigned in the territory as it did. Perhaps one good choice in three is as much as any president has made, or can expect to make, in selecting public agents from a country so vast in extent as the United States even of that day.

Reeder was a Pennsylvania lawyer of good repute. He was commissioned within thirty days after the enactment of the Kansas law,¹ but dawdled so long in starting for his post of duty that he did not arrive till the following October. Marcy suggested Reeder's removal, so inexcusable seemed the delay in obeying the orders given to him. When he had arrived he so dawdled again that voting for members of the legislature did not take place till March, 1855, nor did the legislature assemble till the next July. There was for a year no law in Kansas. The fundamental law of the territory, enacted by Congress, commanded the governor to cause a census of the inhabitants and of the qualified voters to be taken by his duly appointed agents; to superintend by his agents the first election, and the returns thereof; to canvass the returns and declare the persons "duly elected." No one else could do that work. Certainly the president could not. If the governor failed to take a true census of the voters, to give proper oversight through competent officials to the voting, and out of fear, or for any other reason, adequately to canvass the returns and set aside elections in all districts where fraud or violence vitiated the results, the fault was his. Reeder did not report to Marcy the facts tending to

¹ The act was approved by the president May 30, 1854.

show the illegality of the first election, and take his advice. The president was uninformed till after the governor had issued certificates of election to a majority of the members of the territorial legislature. It was then too late for the president to contest the validity of what the governor had done. Having failed to annul all the returns in which systematic and wholesale frauds were palpable, the governor quarreled with the territorial legislature of his own creation, because, over his veto, the legislature removed itself from his town site, Pawnee,¹ to Shawnee. Reeder made the issue that simply because the legislature was in the wrong place it had no legal authority to enact laws; but the territorial supreme court decided that the removal was legal.

If Kansas was at this time in the hands of mere usurpers, it was Reeder who had put the government in their keeping. The situation inspired those in Kansas who felt aggrieved by such conduct to make a new departure, which became the turning point of subsequent violence in the territory and of heated debates in Congress.

In July, 1855, Marcy informed Reeder of his removal, and early in the next September, Shannon, once Governor of Ohio, was appointed to the vacant position. Meanwhile a portion of the people of the territory, having assembled in mass-meeting, at first and avowedly only to form a political party, summoned a convention at Topeka to transform the territory into a state. The convention met in October and framed a constitution which was duly ratified by the anti-slavery faction. Under its provisions, on January 5, 1856, a governor and other officers were elected. Reeder (who only five months before had brought into being the now repudiated legislature) was chosen a representative in Congress and Congress was petitioned to admit Kansas into the Union as a state. The House of Representatives, by a majority of two, voted for the admission, but the Senate refused to concur. The two houses were thus in a dead-lock over Kansas, and thereafter in that

¹ Marcy subsequently discovered that Pawnee existed only on paper, and that Reeder, with others, had been trying to "locate" the town within a military reservation—for connivance with which attempt an officer had been dismissed from the army by court martial.

territory two hostile governments stood confronting each other. Then the Massachusetts Emigrant Aid Company sent rifles into the arena. Reeder, having been received into the camp of the Topeka party, straightway began in Washington, and elsewhere, utterances in defamation of the president and secretary of state, which utterances have been adopted as truth by modern partisan historians. Having been indicted by a grand jury of the territory for acts of a treasonable character, and having in panic terror fled from Kansas disguised as a wood-chopper, Reeder was not, when he arrived at Washington, in a mental or moral condition likely to inspire perfectly impartial historians with unquestioning confidence in his statements before a Congressional committee, or elsewhere.

Meanwhile, during the fall of 1855, organized forcible resistance to the territorial law was developed. Southern organizations and Northern organizations, acting and reacting on one another, were endeavoring by outside intervention to control the political institutions of the inchoate state. Each side insisted that it was on the defensive. On December 11, 1855, Governor Shannon reported to Secretary Marcy that disturbances were imminent and that the territorial militia was unreliable because composed of partisans of both parties, and he asked for authority to call on the federal soldiers stationed in the territory. Some six weeks later Lane, representing the Topeka party, wrote to the president in the same sense, and three days after the date of Lane's petition for military aid of the governor, the president sent to Congress his special message of January 24, 1856, giving a history of the territory to that date. He made therein no discrimination between the groups of outsiders interfering to disturb the peace of the territory, but condemned the Topeka movement as revolutionary in aim, and as tending toward treasonable insurrection, if carried on to the end of organized forcible resistance to law. He declared his purpose to put into Kansas order and obedience to law, whether disorder and disobedience came from upholders of slave labor or from upholders of free labor. No lawyer

could affirm the illegality of the territorial government, or the legality of the Topeka uprising. On February 11, 1856, the president issued a public proclamation declaring that all the needed available military forces of the United States would be employed in Kansas to vindicate the laws. To Marcy and Davis was committed the execution of details.

All the instructions and orders issued, either from the State Department or the War Department, were subsequently transmitted by the president to Congress, or were published by the secretary of war in an appendix to his report of December, 1856. Although those instructions and orders have received no commendation from the historians, yet it may be safely said that they contain rules prescribing the relations of the military to the civil authority in times of public disturbance which are of great value for publicists.

The calamitous pre-eminence to which the abilities of Jefferson Davis raised him in the Senate and elsewhere after the inauguration of Buchanan, when the three-cornered academic debate raged between Buchanan, Douglas and Lincoln over the power of Congress in a territory, has inspired historians of the period from 1854 to 1857 to represent Davis as the pervading Satan of the administration. Now and then, when it suits their purposes, Cushing is associated with Davis in the diabolical rôle, but Marcy is either ignored or assigned to an inferior place, although he was the head of a department subject to a definite responsibility for what went on in Kansas. For the historians all omit to note the fact that, down to 1873, the execution of the laws of Congress for the political government of the territories was in the Department of State. Such matters of territorial government as had not been definitely assigned by statute to some other department, fell to the secretary of state as the successor of the secretary of the Continental Congress. In 1873 it was enacted that

the secretary of the interior shall hereafter exercise all the powers and perform all the duties in relation to the territories of the United States, that are now by law, or by custom, exercised and performed by the secretary of state.

But during the administration of Pierce, Marcy had much the same responsibility for the good conduct of affairs relating to Kansas as he had for that of foreign affairs.

The motive of the historians in attributing all responsibility to the Southern statesman is obvious. As von Holst is the pioneer historian, he is the chief offender. His successors follow his lead. The truth is that Davis was punctilious and careful to the last degree in avoiding interference with the work of a colleague, and so was Cushing. That abstinence practiced by each of the strong, self-reliant, willful members of that cabinet, and insisted on by the president, was what kept them in unexampled harmony to the end—a fact for which the historians offer no explanation. An illustration of the misconception in this matter can be seen on page 122 of Mr. Rhodes' second volume, where he says :

The president was undoubtedly in a strait between two ways, but by the 24th of January, the day on which he sent his special message to Congress, it was known that Jefferson Davis, who was an open friend of the Missouri party, had prevailed.

“Known” by whom? “Prevailed” in what, and against whom? The implication obviously intended is that Davis had “prevailed” against Marcy. But Marcy would never have remained in the cabinet a week after a colleague had manifested toward his matured opinions, in an important matter primarily committed by law to his management, such disregard as is implied in the comments of the historian, and had been sustained by the president.

In accordance with the president's proclamation of February 11, 1856, the secretary of war ordered Generals Sumner and Cook to use the forces under their command on a call by the governor. General Persifer F. Smith, an officer of conspicuous prudence and energy was, for the occasion, assigned to special command in Kansas. As if further to complicate the situation, the lower house of Congress (Republican) in the summer of 1856 attached to the Army Appropriation Bill an amendment forbidding the army to be used in enforcing law

in Kansas; the Senate (Democratic) refused to concur; Congress adjourned; the president reconvened Congress and the appropriation bill was passed without the amendment. The adjournment without appropriating money for the army aggravated the territorial disorder. Shannon resigned. Geary, who succeeded him on September 11, 1856, had been a faithful and competent soldier from Pennsylvania in Mexico. He was a man of conspicuous firmness, courage and self-reliance, perfectly familiar with army methods, and he had the confidence of army officers in Kansas. The result was that on September 30th, 1856, Geary had the happiness to report to Marcy:

Peace now reigns in Kansas. Confidence is gradually being restored. Citizens are returning to their claims. Men are resuming their ordinary pursuits and a general gladness pervades the entire community.

When Congress assembled in the following December, "freedom's battle" in Kansas had been fought and won.¹ The issues really surviving concerned only a struggle for party control of the new state, but the Lecompton Constitution was exploited in a way to disrupt the Democratic Party at Charleston, and the catastrophe went rushing on.

SIDNEY WEBSTER.

¹ Mr. Eli Thayer, a very competent witness, says in his instructive volume, *The Kansas Crusade* (p. 222): "At the end of 1856 I left Kansas work, and began the colonizing of Virginia; we had triumphed in the great conflict with such exuberance of strength that we had in Kansas four free-state men to every one of our opponents, while our numbers were rapidly increasing, and theirs constantly diminishing. Buford and his Southern soldiers had returned to Alabama. Other Southern battalions had retired to the Southern fields of their homes. Atchison and Stringfellow had given up the fight. It now remained for the free-state men of Kansas to restore order. . . . Mr. Lincoln and Mr. Douglas debated the question of slavery extension in 1858, but they were discussing an issue already dead, and of no importance to anybody excepting themselves. . . . Lincoln and Douglas might as well have debated whether or not it was desirable to prevent the recurrence of the Glacial Period."

Mr. Thayer's accurate language does not exclude from his own or the reader's view an appreciation of the adroit methods of Mr. Lincoln's ambition.